

SECOND REGULAR SESSION

HOUSE BILL NO. 1800

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SECREST, HANAWAY, SCOTT, ST. ONGE, ROSS, BARTLE, HUNTER, BURTON, MARBLE, BEHNEN, CUNNINGHAM (Co-sponsors), FROELKER, HENDRICKSON, NAEGER, REINHART, SHIELDS, BARTELSMEYER, JETTON, BARNETT, QUINN, KING, MILLER, HARTZLER, OSTMANN, BEARDEN, KELLY (144), RECTOR, COOPER, MYERS, CRAWFORD, TOWNLEY, CROWELL, SHOEMAKER (8), CHAMPION, ROARK, ENZ, HOLAND, DEMPSEY, FARES, CIERPIOT, GRIESHEIMER, LUETKEMEYER, BLACK, BOATRIGHT, MOORE, RICHARDSON, LONG, HEGEMAN, PHILLIPS, BERKSTRESSER, SCHWAB, KELLEY (47), VOGEL, LEGAN, HENDERSON, MAY (149), PORTWOOD, WRIGHT, MAYER, BURCHAM, HOHULIN, LINTON, GASKILL, RIDGEWAY, PURGASON, BALLARD, SURFACE, NORDWALD AND ROBIRDS.

Read 1st time February 5, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4431L.01H

AN ACT

To repeal section 287.020, RSMo, and to enact in lieu thereof one new section relating to workers' compensation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 287.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.020, to read as follows:

287.020. 1. The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations. Any reference to any employee who has been injured shall, when the employee is dead, also include [his] **the employee's** dependents, and other persons to whom compensation may be payable. The word "employee" shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes [under, in connection with, or arising out of] **pursuant to** this chapter. The word "employee" shall not include an individual who is the owner and operator of a motor vehicle which is leased or contracted with a driver to a for-hire common or contract motor vehicle carrier operating within a commercial zone as defined in section

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 390.020 or 390.041, RSMo, or operating under a certificate issued by the motor carrier and
13 railroad safety division of the department of economic development or by the interstate
14 commerce commission.

15 2. The word "accident" as used in this chapter shall, unless a different meaning is clearly
16 indicated by the context, be construed to mean an unexpected or unforeseen identifiable event
17 or series of events happening suddenly and violently, with or without human fault, and producing
18 at the time objective symptoms of an injury. An injury is compensable if it is clearly work
19 related. An injury is clearly work related if work was [a] **the dominant** substantial factor in the
20 cause of the resulting medical condition or disability. **This chapter shall not apply to personal**
21 **health conditions of an employee which manifest themselves in the employment in which**
22 **the work was not the dominant substantial factor in the resulting need for medical**
23 **treatment.** An injury, **including an injury resulting directly or indirectly from idiopathic**
24 **causes,** is not compensable merely because work was a triggering or precipitating factor.

25 3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen
26 out of and in the course of employment. The injury must be incidental to and not independent
27 of the relation of employer and employee. **An injury shall not be deemed to have been**
28 **directly caused by the employment where it is shown that the employee suffers disability**
29 **as a result of** ordinary, gradual deterioration or progressive degeneration of the body caused by
30 aging [shall not be compensable, except where the deterioration or degeneration follows as an
31 incident of employment] **or by the normal activities of daily living.**

32 (2) **The employee shall not be entitled to recover for the aggravation of a**
33 **preexisting condition, except to the extent that the work-related injury causes increased**
34 **disability.** Any award of compensation shall be reduced by the amount of permanent
35 **partial disability determined to be preexisting. If a compensable injury combines with a**
36 **preexisting disease or condition to cause or prolong disability or need of treatment, the**
37 **resulting condition is compensable only to the extent that the compensable injury is and**
38 **remains the dominant substantial cause of the disability or need for treatment. If the**
39 **substantial cause of a worsened condition is an injury not arising out of and in the course**
40 **of the employment, including injuries from idiopathic causes, the worsening is not**
41 **compensable.**

42 (3) An injury shall be deemed to arise out of and in the course of the employment only
43 if:

44 (a) It is reasonably apparent, upon consideration of all the circumstances, that the
45 employment is [a] **the dominant** substantial factor in causing the injury; and

46 (b) It can be seen to have followed as a natural incident of the work; and

47 (c) It can be fairly traced to the employment as a proximate cause; and

48 (d) It does not come from a hazard or risk unrelated to the employment to which workers
49 would have been equally exposed outside of and unrelated to the employment in normal
50 nonemployment life;

51 [(3)] (4) The terms "injury" and "personal injuries" shall mean violence to the physical
52 structure of the body and to the personal property which is used to make up the physical structure
53 of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other
54 prostheses which are placed in or on the body to replace the physical structure and such disease
55 or infection as naturally results therefrom. These terms shall in no case except as specifically
56 provided in this chapter be construed to include occupational disease in any form, nor shall they
57 be construed to include any contagious or infectious disease contracted during the course of the
58 employment, nor shall they include death due to natural causes occurring while the worker is at
59 work.

60 4. "Death" when mentioned as a basis for the right to compensation means only death
61 resulting from such violence and its resultant effects occurring within three hundred weeks after
62 the accident; except that in cases of occupational disease, the limitation of three hundred weeks
63 shall not be applicable.

64 5. Without otherwise affecting either the meaning or interpretation of the abridged
65 clause, "personal injuries arising out of and in the course of such employment", it is hereby
66 declared not to cover workers except while engaged in or about the premises where their duties
67 are being performed, or where their services require their presence as a part of such service.

68 6. A person who is employed by the same employer for more than five and one-half
69 consecutive work days shall for the purpose of this chapter be considered an "employee".

70 7. The term "total disability" as used in this chapter shall mean inability to return to any
71 employment and not merely mean inability to return to the employment in which the employee
72 was engaged at the time of the accident.

73 8. As used in this chapter and all acts amendatory thereof, the term "commission" shall
74 hereafter be construed as meaning and referring exclusively to the labor and industrial relations
75 commission of Missouri, and the term "director" shall hereafter be construed as meaning the
76 director of the department of insurance of the state of Missouri or such agency of government
77 as shall exercise the powers and duties now conferred and imposed upon the department of
78 insurance of the state of Missouri.

79 9. The term "division" as used in this chapter means the division of workers'
80 compensation of the department of labor and industrial relations of the state of Missouri.

81 10. For the purposes of this chapter, the term "minor" means a person who has not
82 attained the age of eighteen years; except that, for the purpose of computing the compensation
83 provided for in this chapter, the provisions of section 287.250 shall control.